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United States Department of Commerce  
Patent & Trademark Office  
Attorney Advisor  
Office of Legislative and International Affairs  
PO Box #4  
Washington, DC 20231

RE: Conference on Fair Use (CONFU)

Dear Peter:

This is in response to your request for comments on the latest CONFU guidelines by June 30.

I would like to take this opportunity to express our industry's deep appreciation for the leadership of Commissioner Lehman and your hard work to bring the affected industries together. Although agreement was not reached on all issues, the process unquestionably created greater understanding of the concerns and problems experienced by users and owners of copyrighted material, and provided valuable guidance as to what should reasonably be considered fair use in the digital environment.

The exercise of "fair use" must reflect common sense reasonableness and flexibility in a constantly changing environment, consistent with the basic principles of copyright. The determination of what is and is not fair use, in our view, is much more efficiently made by consensus building than by attempts to further refine the existing statutory fair use provisions. We are therefore pleased that the CONFU process will continue in some form. It is important that there continue to be a forum in which interested parties can meet, learn and resolve differences.

With respect to the draft guidelines, MPAA and its member companies participated extensively in the CCUMC-led discussions which resulted in Multimedia Guidelines. We previously endorsed those guidelines and we are pleased they have been widely accepted among the participating parties.

MPAA strongly objects to the Distance Learning Guidelines in their current form. As drafted, they suggest that fair use permits the unauthorized transmission and reproduction of audiovisual works in ways that we believe are clearly prohibited by the Copyright Act and which would conflict with the normal exploitation of the work and unreasonably prejudice the interests of the copyright owner.

Thank you again for all the effort you have put into the CONFU process. You certainly share a large part of the credit for its accomplishments. I look forward to continuing our relationship as CONFU moves to the next stage of its evolution.

Sincerely,